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U.S. Department of Housing and Urban Development ("HUD")*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Carrington Foreclosure Services, LLC,

Plaintiff,

v.

Scott J. Poletto, an individual; Secretary of
the U.S. Department of Housing and Urban
Development; Great Basin Federal Credit
Union; Tuscany Master Association;
Republic Silver State Disposal, Inc. d/b/a
Republic Services; DOES 1 through 10,
inclusive; ROES 1 through 10, inclusive,

Defendants,

Case No. 2:22-cv-00606-JCM-BNW

**Stipulation and Order to: (1) Authorize
Payment of Plaintiff's Attorney's Fees
and Costs from the Excess Proceeds; (2)
Interplead Remaining Excess Proceeds
to the Court; and (3) Dismiss Plaintiff
from this Case with Prejudice**

Plaintiff, Carrington Foreclosure Services, LLC ("Plaintiff"), by and through its
attorney of record, Rock K. Jung, Esq. of the law firm of Wright Finlay & Zak, the United
States of America on behalf of Defendant, U.S. Department of Housing and Urban
Development ("HUD"), by and through Assistant United States Attorney Brianna Smith,
and Defendant Great Basin Federal Credit Union ("Great Basin FCU"), by and through its
attorney of record, Peter Dubowsky, Esq., hereby stipulate to: (1) Authorize Payment of
Plaintiff's Attorney's Fees and Costs from the Excess Proceeds; (2) Interplead Remaining

Excess Proceeds to the Court; and (3) Dismiss Plaintiff from this Case with Prejudice. This Stipulation is based upon the following:

1. Brief Factual Summary of Case

a. Defendant Scott J. Poletto (“Poletto”) executed a deed of trust to secure a loan in the amount of \$392,251.00 to purchase the Property (located at 952 Via Vannucci Way, Henderson, NV 89011, APN: 160-32-713-057) (the “Property”), which was recorded on May 29, 2009, naming MetLife Home Loans, a Division of MetLife Bank, N.A. as the Lender; Nevada Title Company as the Trustee; and Mortgage Electronic Registration Systems, Inc. (“MERS”) as the beneficiary, solely as a nominee for Lender and Lender’s successors and assigns (“Deed of Trust”) which was recorded on September 12, 2013, naming Mortgage Electronic Registration Systems, Inc. (“MERS”) as beneficiary. Complaint (ECF No. 1-2) at ¶ 11, citing Exhibit 1.

b. On or about October 27, 2011, the Deed of Trust was assigned to MetLife Home Loans, A Division of MetLife Bank, N.A. *Id.*, at ¶ 12, citing Exhibit 2.

c. On or about May 21, 2013, the Deed of Trust was assigned to JPMorgan Chase Bank, National Association. *Id.*, at ¶ 13, citing Exhibit 3.

d. On May 22, 2013, a Nevada Assignment of Deed of Trust was recorded assigning the Deed of Trust to JPMorgan Chase Bank, National Association. *Id.*, at ¶ 14, citing Exhibit 4.

e. On May 27, 2016, a Substitution of Trustee was recorded against the Property naming MCT Financial Inc. dba Trustee Corps as the Trustee under the aforementioned Deed of Trust. *Id.*, at ¶ 15, citing Exhibit 5.

f. On March 28, 2019, a Substitution of Trustee was recorded against the Property naming Quality Loan Service Corporation as the Trustee under the aforementioned Deed of Trust. *Id.*, at ¶ 16, citing Exhibit 6.

g. On September 16, 2020, a Corporate Assignment of Deed of Trust was recorded assigning the Deed of Trust to Wilmington Savings fund Society, FSB, as Trustee of Stanwich 10 Mortgage Loan Trust F. *Id.*, at ¶ 17, citing Exhibit 7.

h. On April 27, 2021, a Substitution of Trustee was recorded against the Property naming Plaintiff as the Trustee under the aforementioned Deed of Trust. *Id.*, at ¶ 18, citing Exhibit 8.

i. On October 12, 2021, a Gap Assignment of Deed of Trust was recorded. *Id.*, at ¶ 19, citing Exhibit 9.

j. After Poletto became delinquent on his loan, Plaintiff conducted a nonjudicial foreclosure on the Property on December 7, 2021. *Id.*, at ¶ 20, citing Exhibit 10.

k. The outstanding debt owed to Plaintiff at the time of the foreclosure sale was \$393,480.55, and the Property sold for \$480,000.00, leaving **\$86,519.45** in excess proceeds (the “Excess Proceeds). *Id.*, at ¶ 20.

l. The Excess Proceeds of **\$86,519.45** is currently held in the trust account of Wright Finlay & Zak. *Id.*, at ¶ 22.

m. Except for Plaintiff’s attorney’s fees and costs incurred in initiating this Interpleader action, Plaintiff has no interest in the Excess Proceeds and seeks to deposit the Excess Proceeds with the Court. *Id.*, at ¶¶ 21-22.

2. Interpleader Case History

a. On March 14, 2022, Plaintiff filed its Complaint for Interpleader as to the Excess Proceeds in the Eighth Judicial District Court. *See* ECF No. 1-2, pgs. 2-57.

b. After filing its Complaint, Plaintiff effectuated service as follows:

i. Defendant Poletto (through personal service) on March 22, 2022 (*see* ECF No. 1-2 at pgs. 74-75);

ii. Defendant Great Basin FCU (through service on its registered agent) on March 17, 2022 (*see* ECF No. 1-2 at pgs. 70-71);

iii. Defendant Tuscany Master Association (through Registered Agent) on March 16, 2022 (*see* ECF No. 1-2 at pgs. 72-73); and

iv. Defendant Republic Silver State Disposal, Inc. d/b/a Republic Services (through Registered Agent) on March 16, 2022 (*see* ECF No. 1-2 at pgs. 78-79).

c. HUD removed this Interpleader action to this Court on April 11, 2022.
ECF No. 1.

d. HUD filed its Answer on April 12, 2022. ECF No. 4.

e. Defendant Great Basin FCU filed its Answer on March 21, 2022. *See*
ECF No. 1-2, pgs. 63-67.

f. Defendant Republic Services filed its Disclaimer of Interest in the
Excess Proceeds on March 17, 2022. *See* ECF No. 1-2, pgs. 60-62.

g. Since service being effectuated, Defendants Poletto and Tuscany have
not Answered, responded, or otherwise made any appearance in this federal court action.

3. HUD's Interest in the Remaining Excess Proceeds

a. HUD avers that it is the beneficiary of a Subordinate Deed of Trust
dated September 11, 2014, for the Property, recorded on February 3, 2015, instrument
number 20150203-0001535 of the Official Records of Clark County Recorder, State of
Nevada. *See* ECF No. 4 (Answer) at Exhibit A (Subordinate Mortgage Loan).

b. As of the date of this stipulation, HUD has not been paid the amount
of its loan under its Subordinate Mortgage.

c. The total debt HUD avers that it is owed by Defendant Poletto is
\$110,040.09.

d. After this Stipulation is granted, it is anticipated that HUD will file a
motion for summary judgment so as to fully adjudicate all claims and interests as to the
remaining Excess Proceeds.

4. Great Basin FCU's Interest in the Remaining Excess Proceeds

a. Great Basin FCU avers that it is a creditor.

b. As of the date of this stipulation, Great Basin FCU has not been paid
the amount of its loan.

c. The total debt Great Basin FCU avers that is owed by Defendant
Poletto is \$33,603.19.

1 d. After this Stipulation is granted, it is anticipated that Great Basin FCU
2 will file a motion for summary judgment so as to fully adjudicate all claims and interests as
3 to the remaining Excess Proceeds.

4 Based upon the above, Plaintiff, HUD, and Great Basin FCU hereby stipulate and
5 agree to the following:

6 **(1) Payment of Plaintiff's Attorney's Fees and Costs from the Excess Proceeds:**

7 In bringing this Interpleader action, Plaintiff's attorneys have reasonable expended
8 fees totaling \$4,588.50, as well as costs in the amount of \$1,850.06. Plaintiff's attorney's
9 fees and costs (totaling **\$6,438.56**) should be paid from the Excess Proceeds, pursuant to
10 NRS 40.462(2)(a) and 645A.177(1);

11 **(2) Interplead Remaining Excess Proceeds to the Court:** Pursuant to Fed. R. Civ.
12 P. Rule 67(a) and NRS 645A.177(1), Plaintiff should interplead to the Court the remaining
13 Excess Proceeds of **\$ 80,080.89** (which is: Excess Proceeds of \$86,519.45 *less* Plaintiff's
14 fees/costs of \$6,438.56); and

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WRIGHT FINLAY & ZAK